

06 JUN 2008



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

RANBAXY INC.  
600 COLLEGE ROAD EAST  
SUITE 2100  
PRINCETON NJ 08540

In re Application of	:	
KUMAR et al.	:	
Application No.: 10/549,890	:	DECISION
PCT No.: PCT/IB2004/003789	:	
Int. Filing Date: 19 November 2004	:	
Priority Date: 17 March 2004	:	
Attorney Docket No.: RLL-509US	:	
For: PROCESS FOR THE PRODUCTION OF	:	
ATORVASTATIN CALCIUM IN AMORPHOUS FORM	:	

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 16 January 2008, which has properly been treated as a petition under 37 CFR 1.181.

**BACKGROUND**

On 19 November 2004, applicants filed international application PCT/IB2004/003789, which designated the U.S. and claimed a priority date of 17 March 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 06 October 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 September 2006 (17 September 2006 being a Sunday).

On 16 September 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 25 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that applicant must provide an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b). The NOTIFICATION set a two-month extendable period for reply.

On 14 January 2008, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of

America for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 25 September 2006 within the time period set therein.

On 16 January 2008, applicants filed the instant petition under 37 CFR 1.181.

### **DISCUSSION**

If applicant can establish nonreceipt of the Notification mailed 25 September 2006, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A.

The Notification mailed 25 September 2006 was mailed to the National Starch and Chemical Company in Bridgewater, NJ. However, the correct address is Ranbaxy, Inc. in Princeton, NJ.

Thus, the Notification was sent to an incorrect address. Accordingly, there is sufficient evidence of record to establish that the Notification mailed 25 September 2006 was not received. Accordingly, the Notification mailed 25 September 2006 and the NOTIFICATION OF ABANDONMENT mailed 14 January 2008 are hereby VACATED.

### **CONCLUSION**

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification mailed 25 September 2006 is **VACATED**.

The NOTIFICATION OF ABANDONMENT mailed 14 January 2008 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a new NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905).

/Daniel Stemmer/

Daniel Stemmer  
PCT Legal Examiner  
PCT Legal Affairs  
Office of Patent Cooperation Treaty  
Legal Administration  
Telephone: (571) 272-3301